



IT IS ORDERED as set forth below:

Date: November 13, 2007

James E. Massey

James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 06-64062

Erica Faye Johnson,

CHAPTER 13

Debtor.

JUDGE MASSEY

**ORDER DISAPPROVING IN PART AND
APPROVING IN PART MODIFICATION OF CONFIRMED PLAN**

Debtor proposed to modify her confirmed plan to add a provision that she surrenders a vehicle to AmeriCredit. The Court scheduled a hearing on the proposed modification on November 7, 2007. Only the Trustee filed an objection to the proposed modification. The existence of an objection is not critical here because with or without an objection, the proposed modification goes beyond what the applicable statute permits.

Section 1329 of the Bankruptcy Code limits modifications to increasing or reducing payments to a particular class of creditors, increasing or reducing the time for payments, altering the amount of a distribution to a particular creditor whose claim is paid other than through the

plan and reducing amounts to be paid under the plan by actual amounts expended for health insurance. Surrendering collateral to a secured creditor does not fall within any of the permitted modifications. A debtor may surrender collateral to a secured creditor without modifying the plan. A surrender provision in a plan may not be used as a substitute for objecting to a secured claim. *In re Bateman*, 331 F.3d 821 (11th Cir. 2003).

For these reasons, Debtor's proposed modification is DENIED insofar as it seeks to amend the plan to surrender a vehicle and otherwise is APPROVED.

END OF ORDER